

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DERRICK WHEATT, <i>et al.</i>,)	CASE NO.: 1:17-CV-0377
)	
Plaintiffs,)	
)	<u>EAST CLEVELAND</u>
v.)	<u>DEFENDANTS' ANSWER</u>
)	<u>TO PLAINTIFFS' COMPLAINT</u>
CITY OF EAST CLEVELAND, <i>et al.</i>,)	
)	<u>JURY TRIAL DEMANDED</u>
Defendants.)	

NOW Comes, Defendants, the City of East Cleveland, John C. Bradford, City of East Cleveland, Terrence Dunn, Vincent K. Johnstone, Patricia Lane, D. J. Miklovich, Michael C. Perry, Charles Teel (hereinafter "East Cleveland Defendants") and pursuant to Civ.R.7, hereby respectfully submits their Answer to Plaintiffs' Complaint.

INTRODUCTION

1. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 1 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

2. East Cleveland Defendants deny the allegations contained in Paragraph 2 of Plaintiffs' Complaint.

3. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 3 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

4. East Cleveland Defendants deny the allegations contained in Paragraph 4 of Plaintiffs' Complaint.

5. East Cleveland Defendants deny that Plaintiffs were wronged by any action of the East Cleveland Defendants and specifically state that if any injury were suffered by Plaintiffs it was due to their own misconduct.

Jurisdiction and Venue

6. The allegations contained in Paragraph 6 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 6 of Plaintiffs' Complaint.

7. The allegations contained in Paragraph 7 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 7 of Plaintiffs' Complaint.

Parties

8. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 8 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

9. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 9 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

10. East Cleveland Defendants admit in part and deny in part the allegations contained in Paragraph 10 of Plaintiffs' Complaint, to wit: East Cleveland Defendants admit that the Defendant City of East Cleveland is an Ohio municipal corporation that operates the East Cleveland Police Department. As to any other allegation that may be contained within

Paragraph 10 of Plaintiffs' Complaint, East Cleveland Defendants assert that such allegations attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 10 of Plaintiffs' Complaint.

11. East Cleveland Defendants admit the allegation contained in Paragraph 11 of Plaintiffs' Complaint.

12. East Cleveland Defendants admit the allegation contained in Paragraph 12 of Plaintiffs' Complaint.

13. East Cleveland Defendants admit the allegation contained in Paragraph 13 of Plaintiffs' Complaint.

14. East Cleveland Defendants admit the allegation contained in Paragraph 14 of Plaintiffs' Complaint.

15. East Cleveland Defendants admit the allegation contained in Paragraph 15 of Plaintiffs' Complaint.

16. East Cleveland Defendants admit the allegation contained in Paragraph 16 of Plaintiffs' Complaint.

17. East Cleveland Defendants admit the allegation contained in Paragraph 17 of Plaintiffs' Complaint.

18. East Cleveland Defendants deny the allegation contained in Paragraph 18 of Plaintiffs' Complaint.

19. The allegations contained in Paragraph 19 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is

deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 19 of Plaintiffs' Complaint.

20. The allegations contained in Paragraph 20 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 20 of Plaintiffs' Complaint.

21. The allegations contained in Paragraph 21 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 21 of Plaintiffs' Complaint.

22. . The allegations contained in Paragraph 22 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 22 of Plaintiffs' Complaint.

23. The allegations contained in Paragraph 23 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 23 of Plaintiffs' Complaint.

24. The allegations contained in Paragraph 24 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 24 of Plaintiffs' Complaint.

Background

25. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 25 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

26. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 26 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

27. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 27 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

28. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 28 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

The Murder of Clifton Hudson

29. East Cleveland Defendants admit the allegation contained in Paragraph 29 of Plaintiffs' Complaint.

30. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 30 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

31. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 31 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

32. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 32 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

33. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 32 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

Defendant Officer's Manipulation and Fabrication of Tamika Harris' Statement

34. East Cleveland Defendants admit the allegation contained in Paragraph 34 of Plaintiffs' Complaint.

35. East Cleveland Defendants admit the allegation contained in Paragraph 35 of Plaintiffs' Complaint.

36. East Cleveland Defendants admit the allegation contained in Paragraph 36 of Plaintiffs' Complaint.

37. East Cleveland Defendants admit the allegation contained in Paragraph 37 of Plaintiffs' Complaint.

38. East Cleveland Defendants admit the allegation contained in Paragraph 38 of Plaintiffs' Complaint.

39. East Cleveland Defendants admit the allegation contained in Paragraph 39 of Plaintiffs' Complaint.

40. East Cleveland Defendants deny the allegation contained in Paragraph 40 of Plaintiffs' Complaint.

41. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 41 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

42. East Cleveland Defendants admit the allegation as set forth in Paragraph 42 of Plaintiffs' Complaint.

43. East Cleveland Defendants deny the allegation contained in Paragraph 43 of Plaintiffs' Complaint.

44. East Cleveland Defendants deny the allegation contained in Paragraph 44 of Plaintiffs' Complaint.

45. The allegations contained in Paragraph 45 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 45 of Plaintiffs' Complaint.

46. East Cleveland Defendants admit the allegation contained in Paragraph 46 of Plaintiffs' Complaint.

47. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 47 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

48. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 48 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

49. East Cleveland Defendants admit the allegation contained in Paragraph 49 of Plaintiffs' Complaint.

50. East Cleveland Defendants admit the allegation contained in Paragraph 50 of Plaintiffs' Complaint.

51. East Cleveland Defendants deny the allegations contained in Paragraph 51 of Plaintiffs' Complaint.

52. East Cleveland Defendants admit in part and deny in part the allegations contained in Paragraph 52 of Plaintiffs' Complaint, to wit: East Cleveland Defendants admit that Plaintiffs did not confess. As to any other allegation contained within Paragraph 52 of Plaintiffs' Complaint, East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 52 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

53. East Cleveland Defendants admit the allegation contained in Paragraph 53 of Plaintiffs' Complaint

54. East Cleveland Defendants admit in part and deny in part the allegations contained in Paragraph 54 of Plaintiffs' Complaint, to wit: East Cleveland Defendants admit that "The Defendant Officers arrested Eugene Johnson on the morning of February 11, 1995, and they brought him to the police station for interrogation. As to any other remaining allegation which may be contained within Paragraph 54 of Plaintiffs' Complaint, East Cleveland Defendants avers that those allegations attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the remaining allegations contained in Paragraph 54 of Plaintiffs' Complaint.

55. East Cleveland Defendants admit the allegations contained in Paragraph 55 of Plaintiffs' Complaint.

56. East Cleveland Defendants admit the allegations contained in Paragraph 56 of Plaintiffs' Complaint.

57. The allegations contained in Paragraph 57 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 57 of Plaintiffs' Complaint.

58. East Cleveland Defendants admit the allegation contained in Paragraph 58 of Plaintiffs' Complaint.

59. The allegations contained in Paragraph 59 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 59 of Plaintiffs' Complaint.

60. East Cleveland Defendants admit in part and deny in part the allegations contained in Paragraph 60 of Plaintiffs' Complaint, to wit: East Cleveland Defendants admit that "the Defendant Officers...showed Ms. Harris the impounded GMC Jimmy in the police station garage and asked her to identify it. As to any other remaining allegation that may be contained within Paragraph 60 of Plaintiffs' Complaint, East Cleveland Defendants state that such allegations attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the remaining allegations contained in Paragraph 60 of Plaintiffs' Complaint.

61. The allegations contained in Paragraph 61 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is

deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 61 of Plaintiffs' Complaint.

62. East Cleveland Defendants deny the allegations contained in Paragraph 62 of Plaintiffs' Complaint.

63. The allegations contained in Paragraph 63 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 63 of Plaintiffs' Complaint.

64. The allegations contained in Paragraph 64 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 64 of Plaintiffs' Complaint.

65. The allegations contained in Paragraph 65 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 65 of Plaintiffs' Complaint.

66-69. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 66 through 69 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

70-75. East Cleveland Defendants deny the allegations contained in Paragraphs 70-75.

**The Defendant Officers Withheld Exculpatory Evidence
Obtained From One or More of the Petty Brothers**

76. East Cleveland Defendants admit the allegations contained in Paragraph 76 through 92 of Plaintiffs' Complaint.

93. The allegations contained in Paragraph 93 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 93 of Plaintiffs' Complaint.

94. East Cleveland Defendants admit the allegations contained in Paragraphs 94 through 101 of Plaintiffs' Complaint.

102. East Cleveland Defendants deny the allegations contained in Paragraphs 102 through 106.

**The Defendant Officers Withheld Exculpatory Evidence
Obtained from Derek Bufford**

107. East Cleveland Defendants admit the allegations contained in Paragraphs 107 through 121 of Plaintiffs' Complaint.

122. East Cleveland Defendants deny the allegations contained in Paragraphs 122 through 125 of Plaintiffs' Complaint.

The Wrongful Convictions of Derrick Wheatt and Laurese Glover

126. East Cleveland Defendants admit in part and deny in part the allegations contained in Paragraph 126 of Plaintiffs' Complaint, to wit: East Cleveland Defendants admit that "Mr. Wheatt, Mr. Glover, and Mr. Johnson were tried for the murder of Clifton Hudson in January 1996." As to any other allegation contained within Paragraph 126 of Plaintiffs' Complaint, East Cleveland Defendants state that such remaining allegations attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the remaining allegations contained in Paragraph 126 of Plaintiffs' Complaint.

127. East Cleveland Defendants admit in part and deny in part the allegations contained in Paragraph 127 of Plaintiffs' Complaint, to wit: East Cleveland Defendants admit that "the prosecution offered Mr. Wheatt and Mr. Glover a plea bargain in exchange for their cooperation in testifying against Mr. Johnson....Plaintiffs rejected the plea offer." As to any other remaining allegation contained within Paragraph 126 of Plaintiffs' Complaint, East Cleveland Defendants state that such remaining allegations attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the remaining allegations contained in Paragraph 127 of Plaintiffs' Complaint.

128. The allegations contained in Paragraph 128 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 128 of Plaintiffs' Complaint.

129. East Cleveland Defendants admit the allegations contained in Paragraph 129 of Plaintiffs' Complaint.

130. East Cleveland Defendants deny the allegations contained in Paragraph 130 of Plaintiffs' Complaint and hereby incorporates as if fully rewritten here the admissions, denials and objections as previously set forth. Further responding, East Cleveland Defendants state that any remaining allegations attempt to state a legal conclusion, to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the remaining allegations contained in Paragraph 130 of Plaintiffs' Complaint.

131. The allegations contained in Paragraph 131 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed

necessary, East Cleveland Defendants deny the allegations contained in Paragraph 131 of Plaintiffs' Complaint.

132. East Cleveland Defendants deny the allegations contained in Paragraph 132 of Plaintiffs' Complaint.

133. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 133 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

134. East Cleveland Defendants deny the allegations contained in Paragraph 134 of Plaintiffs' Complaint.

135. East Cleveland Defendants deny the allegations contained in Paragraph 135 of Plaintiffs' Complaint.

Post-Trial Misconduct by East Cleveland Defendants Marino, Naiman, and Dunn

136. East Cleveland Defendants admit the allegation contained in Paragraph 136 of Plaintiffs' Complaint.

137. East Cleveland Defendants admit the allegations contained in Paragraph 137 of Plaintiffs' Complaint.

138. East Cleveland Defendants admit the allegation contained in Paragraph 138 of Plaintiffs' Complaint.

139. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 139 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

140. East Cleveland Defendants are without information sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 140 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

141. East Cleveland Defendants deny the allegations contained within Paragraph 141 of Plaintiffs' Complaint.

142. East Cleveland Defendants admit the allegations contained within Paragraph 142 of Plaintiffs' Complaint.

143. East Cleveland Defendants are without information sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 143 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

144. East Cleveland Defendants are without information sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 144 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

145. East Cleveland Defendants are without information sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 145 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

146. East Cleveland Defendants are without information sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 146 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

147. East Cleveland Defendants are without information sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 147. Further responding East Cleveland Defendants state that the allegations contained in Paragraph 146 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

148. The allegations contained in Paragraph 148 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 148 of Plaintiffs' Complaint.

149. The allegations contained in Paragraph 149 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 149 of Plaintiffs' Complaint.

150. East Cleveland Defendants admit the allegation contained in Paragraph 150 of Plaintiffs' Complaint.

151. The allegations contained in Paragraph 151 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants admit the allegations contained in Paragraph 151 of Plaintiffs' Complaint.

152. East Cleveland Defendants admit the allegations contained in Paragraph 152 of Plaintiffs' Complaint.

153. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 153 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

154. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 154 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

The Exculpatory Police Reports Finally Come to Light

155. East Cleveland Defendants admit the allegations contained in Paragraph 155 of Plaintiffs' Complaint.

156. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 156 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

157. East Cleveland Defendants admit the allegations contained in Paragraph 157 of Plaintiffs' Complaint.

158. East Cleveland Defendants admit the allegations contained in Paragraph 155 of Plaintiffs' Complaint.

159. East Cleveland Defendants admit in part and deny in part the allegations contained in Paragraph 159 of Plaintiffs' Complaint that Defendant Officers and Dunn engaged in any misconduct. Further responding East Cleveland Defendants state that the remaining allegations attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the remaining allegations contained in Paragraph 159 of Plaintiffs' Complaint.

160. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 160 of Plaintiffs' Complaint; and therefore deny same for want of knowledge. Further responding, East Cleveland Defendants state that the remaining allegations attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the remaining allegations contained in Paragraph 160 of Plaintiffs' Complaint.

Plaintiffs' Exoneration

161. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 161 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

162. East Cleveland Defendants admit the allegation contained in Paragraph 162 of Plaintiffs' Complaint.

163. East Cleveland Defendants admit the allegations contained in Paragraph 163 of Plaintiffs' Complaint.

Plaintiffs' Injuries

164. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 164 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

165. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 165 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

166. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 164 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

Count I: Federal law – Fourteenth Amendment Due Process

167. Paragraph 167 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-166 above.

168. East Cleveland Defendants deny the allegations contained in Paragraphs 168 through 172 of Plaintiffs' Complaint.

173. The allegations contained in Paragraphs 173 through 175 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 173 through 175 of Plaintiffs' Complaint.

176. East Cleveland Defendants deny the allegations contained in Paragraph 176 of Plaintiffs' Complaint insofar as any such allegation is asserted against Defendant Dunn. As to any remaining allegation as contained within Paragraph 176, East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 176 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

177. The allegations contained in Paragraphs 177 through 183 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 177 through 183 of Plaintiffs' Complaint.

184. East Cleveland Defendants deny the allegations contained in Paragraph 184 of Plaintiffs' Complaint.

185-188. The allegations contained in Paragraphs 185-188 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 185-188 of Plaintiffs' Complaint.

Count II: Federal Law – Fourth and Fourteenth Amendments

189. Paragraph 189 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-188 above.

190. East Cleveland Defendants deny the allegations contained in Paragraph 190 of Plaintiffs' Complaint.

191. The allegations contained in Paragraph 191 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 191 of Plaintiffs' Complaint.

192. The allegations contained in Paragraph 192 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 192 of Plaintiffs' Complaint.

193. East Cleveland Defendants deny the allegations contained in Paragraph 193 of Plaintiffs' Complaint.

194-201. The allegations contained in Paragraph 194 through 201 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 194 through 201 of Plaintiffs' Complaint.

Count III: Federal Law – Denial of Access to Courts

202. Paragraph 202 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-210 above.

203. East Cleveland Defendants deny the allegation contained in the first sentence of Paragraph 203 insofar as it alleges that Defendant Dunn and Defendant Officers "wrongfully and intentionally concealed information crucial to Plaintiffs' ability to obtain redress through the courts, and did so for the purpose of frustrating that right." In regard to the second sentence of this Paragraph East Cleveland Defendants state that the allegations contained therein attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in the second sentence of Paragraph 203 of Plaintiffs' Complaint.

204-206. East Cleveland Defendants deny the allegations contained in Paragraphs 204 through 206 of Plaintiffs' Complaint insofar as it asserts any allegations against Defendant Dunn and Defendant Officers. Further responding insofar as Paragraphs 204 through 206 asserts any allegations against East Cleveland Defendants Marino and Naiman, East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations; and therefore deny same for want of knowledge.

207. East Cleveland Defendants deny the allegations as set forth in paragraphs 207 insofar as those allegations assert any allegations against Defendant Dunn and Defendant Officers. Further, responding insofar as Paragraph 207 asserts any allegations against East Cleveland Defendants Marino and Naiman, East Cleveland Defendants are without knowledge

sufficient to form a belief as to the truthfulness of those allegations; and therefore deny same for want of knowledge.

208-210. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraphs 208-210 of Plaintiffs' Complaint; and therefore deny same for want of knowledge. Further responding East Cleveland Defendants state that the allegations contained in Paragraph 208-210 are wholly speculative; and therefore East Cleveland Defendants deny same for want of knowledge.

211. East Cleveland Defendants and Defendant Dunn deny that they engaged in any acts of misconduct. Further responding East Cleveland Defendants state that the allegations set forth in Paragraph 211 is wholly speculative and therefore East Cleveland Defendants deny same for want of knowledge. Further responding East Cleveland Defendants admit that relief under Count III is unattainable.

212-214. The allegations contained in Paragraphs 212 through 214 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 212 through 214 of Plaintiffs' Complaint.

Count IV: Federal Law – Failure to Intervene

215. Paragraph 215 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-214 above.

216-219. The allegations contained in Paragraphs 216 through 219 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent

that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 216 through 219 of Plaintiffs' Complaint.

Count V: Federal Law – Conspiracy to Deprive Constitutional Rights

220. Paragraph 220 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-219 above.

221-224. East Cleveland Defendants deny the allegations contained in Paragraphs 221-224 insofar as they assert any allegations against Defendant Dunn and Defendant Officers. Further, responding insofar as Paragraphs 221 through 224 asserts any allegations against East Cleveland Defendants Marino and Naiman, East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of those allegations; and therefore deny same for want of knowledge.

225-226. The allegations contained in Paragraphs 225 through 226 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 225 through 226 of Plaintiffs' Complaint.

Count VI: Ohio Law – Malicious Prosecution

227. Paragraph 227 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-226 above.

228. The allegations contained in Paragraph 228 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is

deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 228 of Plaintiffs' Complaint.

229. East Cleveland Defendants deny the allegations contained in Paragraph 229 of Plaintiffs' Complaint.

230-232. The allegations contained in Paragraph 230 through 232 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 230 through 232 of Plaintiffs' Complaint.

Count VII: Ohio law – Intentional Infliction of Emotional Distress

233. Paragraph 233 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-232 above.

234-237. The allegations contained in Paragraph 234 through 237 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 234 through 237 of Plaintiffs' Complaint.

Count VIII: Ohio Law – Civil Conspiracy

233. Paragraph 233 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-232 above.

234-237. The allegations contained in Paragraph 234 through 237 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a

response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 234 through 237 of Plaintiffs' Complaint.

Count VIII: Ohio Law – Civil Conspiracy

238. Paragraph 238 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-237 above.

239. East Cleveland Defendants deny the allegations contained in Paragraph 239 of Plaintiffs' Complaint.

240. East Cleveland Defendants deny the allegations contained in Paragraph 240 of Plaintiffs' Complaint.

241-243. The allegations contained in Paragraphs 241 through 243 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 241 through 243 of Plaintiffs' Complaint.

Count IX: Ohio Law – Tortious Interference

244. Paragraph 244 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-243 above.

245-247. East Cleveland Defendants deny the allegations contained in Paragraphs 245 through 247 of Plaintiffs' Complaint insofar as any such allegation is asserted against Defendant Dunn and Defendant Officers. As to any remaining allegation as contained within Paragraphs 245 through 247 East Cleveland Defendants are without knowledge sufficient to form a belief as

to the truthfulness of the allegations of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

248-250. The allegations contained in Paragraphs 248 through 250 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 248 through 250 of Plaintiffs' Complaint.

Count X: Ohio Law – Respondeat Superior

251. Paragraph 251 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-250 above.

252. The allegations contained in Paragraphs 252 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 252 of Plaintiffs' Complaint.

253. East Cleveland Defendants are without knowledge sufficient to form a belief as to the truthfulness of the allegations as set forth in Paragraph 253 of Plaintiffs' Complaint; and therefore deny same for want of knowledge.

254. The allegations contained in Paragraphs 254 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraphs 254 of Plaintiffs' Complaint.

Count XI: Ohio Law – Indemnification

255. Paragraph 255 of Plaintiff's Complaint appears to be an incorporation paragraph, therefore East Cleveland Defendants restates the admissions, denials and objections as set forth in paragraphs 1-254 above.

256. The allegations contained in Paragraph 256 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 256 of Plaintiffs' Complaint.

257. The allegations contained in Paragraph 257 of Plaintiffs' Complaint attempt to state a legal conclusion to which no response is required. To the extent that a response is deemed necessary, East Cleveland Defendants deny the allegations contained in Paragraph 257 of Plaintiffs' Complaint.

PRAYER FOR RELIEF

258. Defendants deny that Plaintiffs are entitled to any relief as demanded.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

259. Plaintiff's Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

260. No actions or inactions of the Defendants were the proximate cause of Plaintiff's alleged injuries or damages.

THIRD AFFIRMATIVE DEFENSE

261. Plaintiff's claims are barred against Defendant, City of East Cleveland under all doctrines of privilege, qualified privilege, and immunity, including those granted under Ohio Revised Code 2744.01 *et seq.* and common law.

FOURTH AFFIRMATIVE DEFENSE

262. Plaintiffs' claims are barred against Defendants, the City of East Cleveland, John C. Bradford, City of East Cleveland, Terrence Dunn, Vincent K. Johnstone, Patricia Lane, D. J. Miklovich, Michael C. Perry and Charles Teel under all doctrines of privilege, qualified privilege, and immunity, including those granted under Ohio Revised Code 2744.01 *et seq.* and common law.

FIFTH AFFIRMATIVE DEFENSE

263. Plaintiffs' own actions and inactions led to their alleged injuries.

SIXTH AFFIRMATIVE DEFENSE

264. Plaintiffs have failed to join all parties necessary for a just adjudication of this matter.

SEVENTH AFFIRMATIVE DEFENSE

258. Plaintiffs' Complaint demonstrates that the East Cleveland Defendants are entitled to assert the affirmative defense of advice of attorney.

EIGHTH AFFIRMATIVE DEFENSE

259. On its face, Plaintiffs' Complaint demonstrates that Defendants are entitled to assert the defense of *res judicata*.

NINTH AFFIRMATIVE DEFENSE

259. Plaintiffs' claims are barred under the doctrine of unclean hands

TENTH AFFIRMATIVE DEFENSE

260. On its face, Plaintiffs' Complaint demonstrates that there is no adequate remedy at law for their claimed injuries.

ELEVENTH AFFIRMATIVE DEFENSE

261. This Court lacks subject matter jurisdiction over this matter.

WHEREFORE, having fully answered the East Cleveland Defendants; respectfully request that Plaintiffs' Complaint be dismissed, with prejudice, and that they be awarded the costs, expenses, and attorneys' fees necessary to prosecute this action to a just conclusion.

Respectfully submitted,
CITY OF EAST CLEVELAND

/s/ Willa M. Hemmons
WILLA M HEMMONS (0041790)
Director of Law
14340 Euclid Avenue
East Cleveland, Ohio 44112
(216) 681-2393 (office)
(216) 681-2199 (facsimile)
whemmons@eastcleveland.org

Attorney for East Cleveland Defendants

CERTIFICATE OF SERVICE

A copy of the East Cleveland *Defendants' Answer to Plaintiffs' Complaint* was electronically filed with the Court on this 29th day of March, 2017; and that by operation of this Court's electronic notification system a copy thereof is made available to all registered parties.

Respectfully submitted,

/s/ Willa M. Hemmons

Willa M. Hemmons (0041790)

Director of Law

City of East Cleveland

14340 Euclid Avenue

East Cleveland, Ohio 44112

COUNSEL FOR

EAST CLEVELAND DEFENDANTS

JURY DEMAND

Defendants, the City of East Cleveland, John C. Bradford, City of East Cleveland, Terrence Dunn, Vincent K. Johnstone, Patricia Lane, D. J. Miklovich, Michael C. Perry, Charles Teel hereby demand a trial by jury pursuant to Federal Rule of Civil Procedure 38(B) on all issues so triable.

Respectfully submitted,

/s/ Willa M. Hemmons

Willa M. Hemmons (0041790)

Director of Law

City of East Cleveland

14340 Euclid Avenue

East Cleveland, Ohio 44112

COUNSEL FOR

EAST CLEVELAND DEFENDANTS